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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/433,257	11/04/1999	YEVGENIY EUGENE SHTEYN	PHA-23.782	2314

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EXAMINER

LIN, WEN TAI

ART UNIT PAPER NUMBER

2154

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/433,257

Applicant(s)

SHTEYN, YEVGENIY EUGENE

Examiner

Wen-Tai Lin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6 and 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 2-6 and 12-22 are presented for examination.
2. The prosecution of this instant application is re-opened because a new prior art, McLain [U.S. Pat. No. 6493758], is found. The finality of the previous office action is hereby withdrawn in view of the new ground of rejection set forth below.
3. The text of those sections of Title 35, USC code not included in this action can be found in the prior Office Action.

Claim Rejections - 35 USC § 103

4. Claims 4-6 and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen [U.S. Pat. No. 5751968] in view of McLain [U.S. Pat. No. 6493758].
5. Cohen was cited in the previous office action.
6. As to claims 14-15, Cohen teaches the invention substantially as claimed including: a method of, at a client device, forming a media presentation from multiple related files, including a control information file [54, Fig.5; col.6, lines 26-40], stored on one or more server computers within a computer network, the method comprising:

downloading the control information file to the client device [56, Fig.5];
the client device parsing the control information file [58, Fig.5; col.6, lines 26-40;
i.e., the interactive display application program must parse the connection file in order to
obtain the reference for segment file and its associated status]; and
based on the control information file, the client device:
retrieving a first file and using contents of the first file to begin a media
presentation [60, Fig.5; col.6, lines 41-44];
concurrent with the media presentation, retrieving a next file; and
using content of the next file to continue the media presentation [64, Fig.5; col.6,
lines 44-54].

Cohen does not specifically teach how the connection file is formed and using what format. That is, Cohen does not indicate whether the parameters contained in the control information file are extracted via parsing or not. However, in the same field of endeavor, McLain teaches that the control information file may be written in the form of XML file and use the browser's parser for extracting parameters therein [McLain: see col.1, lines 43-65].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used XML as an alternative format for composing Cohen's connection file because XML is well known for its flexibility, with which it would make Cohen's connection file more dynamic and adaptable for containing the rather sophisticated file status information [col.6, lines 26-40].

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7. As to claims 4-5, Cohen further teaches that the media presentation comprises an audio presentation or a video presentation [col.1, lines 49-54].

8. As to claim 6, Cohen in view of McLain teaches that partitioning of media presentation information between the multiple related files is described within the control information file using tags corresponding to respective files [i.e., XML uses tags for specifying various parameters and values].

9. As to claim 16, Cohen in view of McLain further teaches that the XML file identifies multiple alternative files corresponding to a given segment of the media presentation, the method further comprising selecting and retrieving one of the multiple alternative files [Cohen: col.6, line 63 – col.7, line 5].

10. As to claims 12-13 and 17-22, since the features of these claims can also be found in claims 4-6 and 14-16, they are rejected for the same reasons set forth in the rejection of claims 4-6 and 14-16 above.

11. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen [U.S. Pat. No. 5751968], as applied to claims 4-6 and 12-22 above and McLain [U.S. Pat. No. 6493758], as applied to claims 4-6 and 12-22 above, further in view of Lin et al.(hereafter "Lin")[U.S. Pat. No. 6405256].

12. Lin was cited from the previous office action.

13. As to claim 2, Cohen does not specifically teach that partitioning of media presentation information between the multiple related files is determined by information about the client.

However, Lin teaches a data streaming method/system wherein partitioning of streamed data is based on the buffering capability of the client device [Lin: col.6, lines 47-50]. It would have been obvious to one of ordinary skill in the art at the time the invention was made that Cohen's data file size should be a factor of the client's buffering and display capability because this criterion makes sure that data streaming in Cohen's media presentation can be achieved without overflowing the client's buffering capacity [col.5, lines 39-53].

14. As to claim 3, Cohen does not specifically teach that partitioning of media presentation information between the multiple related files is determined by information about the computer network.

However, Lin teaches a network comprising a plurality of caching servers, each with expandable buffer for storing additional segments of streamed data for absorbing network congestion [Abstract]. Since the caching servers and the network congestion are part of the information of the network, it is obvious that the data segmentation in Cohen's network, which obviously also comprises a plurality of communication nodes, should also be based on the network's buffering capability in each intermediate network

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node, because by doing so one would be able to anticipate Cohen system's tolerance against traffic fluctuation.

15. Claims 2-6 and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLain [U.S. Pat. No. 6493758] in view of White et al. (hereafter "White") [U.S. Pat. No. 6005563].

16. As to claims 14-15, McLain teaches the invention substantially as claimed including: a method of, at a client device, forming a media presentation from multiple related files [Figs. 7A-7C], including a control information file [i.e., the CDF; see col.1, lines 43-65] , stored on one or more server computers within a computer network [Figs.1 and 10; note that (i) in the case of off-line browsing the host computer (16, Fig.1) functions as a server with respect to the mobile device (18, Fig.1) and (ii) in the case of on-line browsing, the content provider functions as a server and the mobile device a client (see 12, 18, Fig.10)], the method comprising:

downloading the control information file to the client device [col.3, lines 21-32 and 50-56];

the client device parsing the control information file, wherein the control information file is an XML file [i.e., by default the CDF file is parsed by the receiving client's browser because it is written in XML format].

McLain teaches that the CDF file may contain a list of sound files for retrieving and rendering at the client device. McLain does not specifically teach that media presentation of an audio file and retrieval of its next file is performed concurrently.

However, in the same field of endeavor, White teaches a method for playing background music by playing an audio file and downloading its next file concurrently [1101, 1102, Fig.11B; col.14, lines 37-43].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to adopt the same concurrency in McLain's system because (1) audio clips need to be rendered in a smooth fashion and (2) by pipelining the retrieving and rendering process it would reduce transmission latency and avoid the burden of storing the entire set of audio clips locally [McLain: col.11, line 59 – col.12, line 23, wherein downloading files and filtering are performed in a streaming process].

17. As to claims 2-3, McLain further teaches that partitioning of media presentation information between the multiple related files is determined by information about the client and about the computer network [Abstract; col.11, lines 12-32; col.7, line 38 – col.8, line 36; note that since the receiving buffer of the mobile device is also part of the network, the capabilities of the mobile device are also part of the network parameters (e.g., communication bandwidth)].

18. As to claims 4-5, McLain further teaches that the media presentation comprises audio and/or video presentations [e.g., Figs. 7B-7C; col.10, line 61- col.11, line 9].

19. As to claim 6, McLain further teaches that partitioning of media presentation information between the multiple related files is described within the control information file using tags corresponding to respective files [col.3, lines 19-26, wherein XML uses tags to define various parameters (see also Table 1)].

20. As to claim 16, McLain further teaches that the XML file identifies multiple alternative files corresponding to a given segment of the media presentation [e.g., in terms of audio clips], further comprising selecting and retrieving one of the multiple alternative files [col.9, line 60 – col.10, line 34].

21. As to claims 12-13 and 17-22, since the features of these claims can also be found in claims 2-6 and 14-16, they are rejected for the same reasons set forth in the rejection of claims 2-6 and 14-16 above.

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Wecker et al.	[U.S. Pat. No. 6311058]; and
Wecker et al.	[U.S. Pat. No. 6449638].

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23. Applicant's arguments with respect to claims 2-6 and 12-22 have been considered but are moot in view of the new ground(s) of rejection (see paragraph #6 of this office action).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (703)305-4875. The examiner can normally be reached on Monday-Friday(8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (703)305-9678. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)746-7239 for official communications;

(703)746-7238 for after final communications; and

(703)746-5516 for status inquires draft communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Wen-Tai Lin

September 30, 2004

Wen-Tai Lin
9/30/04